

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029



SDMS DocID 2227207

SUBJECT: Malvern TCE De Minimis Administrative Record
Discrepancies

September 9, 1999

FROM: Michael H. Frankel (3RC41)
Paralegal Specialist

TO: Joan A. Johnson (3RC41)
Assistant Regional Counsel

File

CC: Heather Gray Torres (3RC41)
Associate Regional Counsel

At approximately 11:00 a.m. this morning while receiving training on the Superfund Document Management System ("SDMS"), I discovered significant discrepancies in the Malvern TCE Superfund Site, De Minimis Settlement Administrative Record.

HISTORY

As you are aware in February 1999, I began to research how to construct and what should be contained within a De Minimis Settlement Administrative Record. After concluding my research, I met with Gary Morton, Civil Investigator ("Gary"), and as we discussed, requested that he prepare the Administrative Record for the De Minimis Settlement ("Record"). I met with Gary on a several occasions in February to review what should and should not be contained in the Record and spoke with him regarding the completion of the Record throughout March and April 1999. I also arranged for Gary to meet with Senior Assistant Regional Counsel, Yvette Hamilton-Taylor, to further discuss and clarify the requirements for the Record. I also suggested that Gary speak with Senior Assistant Regional Counsel, Daniel Isales and fellow Civil Investigator, Joan Armstrong, all of whom had recently completed De Minimis Settlements.

In March 1999, I was continuing my work on the Malvern De Minimis settlement ("AOC") by preparing the package for formal concurrence by Agency management and the Regional Administrator. I prepared a number of documents including, but not limited to, a Ten Point Settlement Analysis, a Memorandum for the Regional Administrator's concurrence which detailed an explanation of the De Minimis Settlement, the Federal Register Notice, various transmittal memos and letters (the "Package").

The Package was completed and ready for review in early April. Heather Gray Torres ("Heather") completed the initial review within a few days of receipt of the package. I incorporated her changes into the documents and returned the package to Heather for concurrence the following day. At this point Heather informed me that the Package needed to be held until the draft index to the Record could be supplemented, corrected and completed for inclusion in the Package.

Around the third week of April 1999, Gary gave me a Draft Index to the Record, which he informed me had been prepared by the contractor, for me to review. The index failed to contain some of the documents that Gary and I had agreed should be included. In addition several draft documents, clearly marked as such, were included, as well as a Ten Point Analysis Memo clearly marked "Attorney Work Product."

I asked Heather to review the index for content to determine which additional documents should be included in the Record. She conferred with Neil Wise, Associate Regional Counsel, and I believe with Larry Miller, Section Chief, PRP Search Section, as to whether the Record should contain, among other documents, the letters from PRPs challenging the Volumetric Ranking Summary Methodology, Successor/Mis-identification of parties as PRPs and Counting challenges. It was agreed that the challenges letter should indeed be included. Heather requested the inclusion of several other items including guidance documents, and a General Notice Letter list of parties to whom the GNL was sent, etc.

At this point in time I relayed to Gary that what the contractor had prepared was not acceptable to management and that it would not be used. I also suggested to Gary that for the sake of expediency that I would complete the Record in accordance with the research that I had conducted and the wishes of management. He agreed. I proceeded to gather, organize and index all the appropriate documents, and created the Record and its index ("Index"). I supplied a copy of the Index as part of the Package. All parties along the concurrence chain, up to and including the Regional Administrator, evaluated the Package and eventually concurred, most likely taking into account the documents listed in the Index, before making their decisions.

On May 21, 1999, the Package was signed by the Regional Administrator and was transmitted to the Department of Justice ("DOJ") for approval. Subsequent to DOJ approval in late June 1999, the AOC went out for a public comment period, which closed on August 7, 1999, no comment was received.

In mid June 1999, Gary called me in response to inquiries from Anna Butch as to the status of the Draft Admin. Record Index, that the contractor had prepared. I reminded Gary that the index from the contractors was not being used. I had previously supplied Gary a copy of the Index which was part of the Package. In July 1999, I delivered to the Administrative Record Room, to the attention of Anna Butch a complete set of documents, in order and indexed which comprised the Record.

In early August 1999, Gary called me and requested a copy of a memo from Michael McCabe to Bill Early and Abe Ferdas for the Record. I again informed Gary that the Record I had supplied to Anna Butch was complete and ordered to the Index which accompanied the documents, and he need take no further action concerning the Record. Further, that there was no such memo from the Michael McCabe, and if there were any questions to please have either Anna or the contractor call me (See Attachment 3). I received no further inquiries concerning the Record.

DISCREPANCIES

While training on SDMS software, this morning, I came across an entry for the Malvern TCE Site De Minimis Settlement Administrative Record Index. The entry indicated that the index contained only two pages. The Index that had accompanied the settlement package through concurrence, which I had prepared, contained approximately 15 - 19 pages. When I viewed what had been entered, I discovered that what had been set forth as the record was not what had been considered by the decision makers, nor was it even close to what had been submitted to the Admin. Record Room.

Instead, what is on display as the index to the Record, is some version of the document that Gary had the contractor prepare. This document includes the Ten Point Settlement Analysis, clearly marked and indexed as **Attorney Work Product**. The record also **omits** many of the documents which management specified should be included. Among the documents missing from the record are: all of the challenge letters, counting, methodology and successor/mis-identification; five guidance documents, EPAs Response to Challenges to the VRS, a General Notice Letter and list of parties to whom the letter was sent, etc.

I verified that what is actually on display in the Admin. Record Room is only that which is included in the two page index. Anna Butch informed me today, that the Record and Index, that I provided to her in mid July 1999, had been returned to Gary Morton for review and that Gary had returned to her, for inclusion in the record, only those documents which currently appear, including the Ten Point Analysis marked Attorney Work Product.

I spoke with Gary by phone the day I turned the Record over to Anna Butch, informing him that **nothing** further needed to be done on the Record, and if either he, Anna or the contractor had any questions to please call me.

At our weekly section meeting this morning, I informed Heather Gray Torres of what I had discovered and supplied her copies of both the correct Index and the incomplete version, which now is on public display, both in the Region and on the Internet. Heather advised that she would discuss the matter with Larry Miller and that I need take no further action at this time.

Malvern TCE
De Minimis Admin. Record
Discrepancies

The index on display is included as Attachment 1 to this memo. The Index which accompanied the Package through concurrence is included as attachment 2 to this memo. This memo is provided for your information

Attachments

Malvern TCE
De Minimis Admin. Record
Discrepancies

ATTACHMENT ONE

MALVERN TCE
ADMINISTRATIVE RECORD FILE
FOR THE DE MINIMIS SETTLEMENT
INDEX OF DOCUMENTS

1. Memorandum to Mr. W. Michael McCabe, U.S. EPA, from Mr. William Early and Mr. Abraham Ferdas, U.S. EPA, re: Explanation of the proposed De Minimis settlement, 5/21/99. P. 000001-000554. The following are attached:
 - a) an undated document entitled, "Malvern TCE Volumetric Ranking Summaries/Overview and Methodology;
 - b) a November 30, 1998, table entitled, "Malvern TCE Superfund Site, Generator Volumetric Ranking Summary (by Descending Order);"
 - c) a November 30, 1998, table entitled, "Malvern TCE Superfund Site, Generator Volumetric Ranking System (by Alphabetical Listing);"
 - d) a November 30, 1998, table entitled, "Malvern TCE Superfund Site, Broker/Transporter Volumetric Ranking Summary;"
 - e) a March 4, 1999, PRP data package entitled, "Malvern TCE Superfund Site: Comprehensive Transaction Report for Broker/Transporter Waste;"
 - f) a March 4, 1999, PRP data package entitled, "Malvern TCE Superfund Site: Comprehensive Transaction Report."
2. Letter to Mr. W. Michael McCabe, U.S. EPA, from Mr. Walker Smith, U.S. Department of Justice, re: Approval of the Administrative Order on Consent for De Minimis Settlement in connection with the Malvern TCE Site, 6/9/99. P. 000555-000555.
3. Federal Register Notice entitled, "Proposed Administrative Settlement Under the Comprehensive Environmental Response, Compensation, and Liability Act, (undated). P. 000556-000558.

Administrative Record File available 8/25/99.

4. Administrative Order on Consent for De Minimis Settlement in the Matter of: Malvern TCE Superfund Site, U.S. EPA Docket No. III-98-074-DC, (undated). P. 000559-000589.
5. Request for Public Comment, prepared by U.S. EPA, re: Proposed Administrative Settlement Under the Comprehensive Environmental Response, Compensation, and Liability Act, (undated). P. 000590-000734. The following are attached:
 - a) an undated document entitled, "Attorney Work Product: Settlement Analysis of Proposed De Minimis Settlement for the Malvern TCE Superfund Site;"
 - b) "Attachment A," List of De Minimis Parties
 - c) "Attachment B," Final Administrative Order on Consent for De Minimis Parties;
 - d) "Attachment C," Volumetric Ranking Summaries/ Overview and Methodology and Volumetric Ranking Summaries/Challenges and EPA's Response;
 - e) "Attachment D," Comprehensive Mailing List (All Site PRP's).
6. Document outlining the agenda for a Malvern TCE information meeting, (undated). P. 000735-000811. The following are attached:
 - a) "Attachment 1: Site Fact Sheets;"
 - b) "Attachment 2: Your Company's Invoices;"
 - c) "Attachment 3: Draft Volumetric Ranking Summary;"
 - d) "Attachment 4: List of PRP Names and Addresses;"
 - e) "Attachment 5: EPA Guidance on De Minimis Settlements."

ATTACHMENT TWO

MALVERN TCE SUPERFUND SITE ADMINISTRATIVE RECORD FILE
FOR THE DE MINIMUS SETTLEMENT

DRAFT INDEX OF DOCUMENTS

I) GUIDANCE DOCUMENTS

- A) "Guidance on Premium Payments in CERCLA Settlements," OSWER Dir. No. 9835.6 (November 17, 1988).
- B) "Methodologies for Implementation of CERCLA Section 122(g)(1)(A) De Minimis Waste Contributor Settlements," OSWER Dir. No. 9834.7-1B (December 20, 1989).
- C) "Guidance on Preparing Waste-In Lists in Volumetric Rankings for Release to Potentially Responsible Parties under CERCLA," OSWER Dir. No. 9835.1B (February 20, 1991).
- D) "Methodology for Early *De Minimis* Waste Contributor Settlements under CERCLA Section 122(g)(1)(A)," OSWER Dir. No. 9834.7-1C (June 2, 1992).
- E) "Streamlined Approach for Settlements with *De Minimis* Waste Contributors under CERCLA Section 122(g)(1)(A)," OSWER Directive 9834.71D (July 30, 1993).
- F) "Standardizing the *De Minimis* Premium," Bruce Diamond, Director, Office of Site Remediation Enforcement (July 7, 1995).

II) POTENTIALLY RESPONSIBLE PARTIES

- A) Letter regarding General Notice of Potential Liability in relation to the Malvern TCE Superfund Site, dated November 16, 1996.

1) Attachments

- a) Site Fact Sheet.
- b) Draft Volumetric Ranking, dated 11/14/96.
- c) List of PRP names and addresses.

- 2) Comprehensive Mailing List of Potentially Responsible Parties who were sent the November 16, 1996, General Notice of Potential Liability Letter.

- B) Letter conveying the *De Minimis* Settlement Offer, dated December 16, 1998.

1) Attachments

- a) Final Administrative Order on Consent for *De Minimis* Parties.
- b) Volumetric Ranking Summaries Overview and Methodology.
- c) Volumetric Ranking Summaries Challenges and EPA's Response.
- d) Comprehensive Mailing List (All Site PRPs).

- 2) List of *De Minimis* parties who were sent the December 16, 1998, *De Minimis* settlement offer.

III) VOLUMETRIC RANKING AND METHODOLOGY

- A) Malvern TCE Volumetric Ranking Summaries/Overview and Methodology.
- B) Malvern TCE Superfund Site Generator Volumetric Ranking Summary by Descending Order, dated 11/30/98.
- C) Malvern TCE Superfund Site Generataor Volumetric Ranking Summary by Alphabetical Listing, dated 11/30/98.
- D) Malvern TCE Superfund Site Broker/Transporter Volumetric Ranking Summary, dated 11/30/98
- E) Comprehensive Transaction Report Summary for each potentially responsible party in relation to the Malvern TCE Superfund Site, dated 3/4/99.
- F) Memorandum from William C. Early, US EPA, Acting Regional Counsel and Abraham Ferdas, US EPA, Director, Hazardous Site Cleanup Division, to W. Michael McCabe, US EPA, Region III, Regional Administrator, Re: Explanation of Proposed De Minimis Settlement for the Malvern TCE Superfund Site, dated

IV) CHALLENGES BY POTENTIALLY RESPONSIBLE PARTIES IN RELATION TO THE MALVERN TCE SUPERFUND SITE.

A) Challenges to the Volumetric Ranking Summaries and/or Methodology.

- 1) Letter to Gary W. Morton, US EPA , Civil Investigator, from Andrew P. Foster, Esq., Counsel for A&L Handles, dated 10/6/97 with attachments.
- 2) Letter to Gary W. Morton, US EPA, Civil Investigator, from Chuck Hungerford, Esq., Counsel for A.S. Koch dated 2/12/98 with attachments.
- 3) Letter to Gary W. Morton, US EPA, Civil Investigator, from Joseph M. Macchione and Harry R. Weiss Esq., Counsel for Action Manufacturing, Inc., dated 11/13/97 with attachments.
- 4) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Patrick S. Till, Environmental/Safety Engineer for Tracor Aerospace Electronic Systems, Inc. dated 8/22/97.
- 5) Letter to Gary Morton, US EPA, Civil Investigator, from Madeline R. Berg, Esq., Counsel for Ametek, Inc. And Hunter Spring dated 10/10/97 with attachments.
- 6) Letter to Gary Morton, US EPA, Civil Investigator, from Madelaine R. Bert, Esq. Counsel for Ametek, Inc., dated 12/18/96 with attachments.
- 7) Letter to Gary W. Morton, Civil Investigator, from Bernard A. Labuskes, Jr., Counsel for AMP Incorporated dated 9/22/97 with attachments.
- 8) Letter to Gary W. Morton, US EPA, Civil Investigator, from Mark A. Stevens, Esq., Counsel for Armstrong World Industries dated 10/6/97 with attachments.
- 9) Letter to Gary W. Morton, US EPA, Civil Investigator, from Claire M. Diemer, Esq., Counsel for Beckett Corporation, dated 10/6/97 with attachments.

- 10) Letter Benjamin Fields, Esquire, US EPA, from Clare M. Diemer, Esq., Counsel for Beckett Corporation dated 12/20/96 with attachments.
- 11) Letter to Gary W. Morton, Civil Investigator, from Clare M. Diemer, Esq., Counsel for Beckett Corporation dated 7/31/98.
- 12) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Bruce Alan Herald, Esq., Counsel for Beemer Precision, Inc. dated 11/27/96 with attachments.
- 13) Letter to Gary W. Morton, US EPA, Civil Investigator, from James R. Greene, Esq., Counsel Beemer Precision, Inc. Dated 10/3/97 with attachments.
- 14) Letter to Gary W. Morton, US EPA, Civil Investigator, from Patrick O. Cavanaugh, Esq., Counsel for Biddle Instruments dated 11/6/97.
- 15) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Marc Scott Davies, for Boekel Industries dated 11/26/96.
- 16) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Douglas B. Clark, Esq., Counsel for Brandt Corporation dated 11/27/96.
- 17) Letter to Greg Hamm, US EPA, Remediation Manager, from Francis G.X. Pileggi, Esq., Counsel for Brumbaugh Industries, Inc., dated 5/22/97 with attachments.
- 18) Letter to Greg Hamm, US EPA, Remediation Manager, from Francis G.X. Pileggi, Esq., Counsel for Brumbaugh Industries, Inc. dated 7/2/97.
- 19) Letter to Gary W. Morton, US EPA, Civil Investigator, from the Budd Company, dated October 6, 1997 with attachments.
- 20) Letter to Gary W. Morton, US EPA, Civil Investigator from Steven D. Meyers, Esq., Counsel for Bunnell Plastics, Inc., dated 10/5/97 with attachments.
- 21) Letter to Gary W. Morton, US EPA, Civil Investigator from Aria A. Klees, Senior Counsel, Environmental Health and Safety for Unisys

Corporation dated 10/6/97 with attachments.

- 22) Letter to Gary W. Morton, US EPA, Civil Investigator from Emily J. Lawrence, Esq., Counsel for Cabot Wrought Products dated 8/23/97 with attachments.
- 23) Letter Gary Morton, US EPA, Civil Investigator from Emily J. Lawrence, Esq., Counsel for NGK Metals, dated 1/17/97 with attachments.
- 24) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Richard J. Petsche, for Cantol Specialty Chemicals dated 8/12/97.
- 25) Letter to Gary W. Morton, US EPA, Civil Investigator, from Frank J. Kearney, Jr., for Chobert Manufacturing Corp., dated 10/6/97 with attachments.
- 26) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Arthur Freilich, for Chrono-Log Corporation dated 11/18/96 .
- 27) Letter to Gary W. Morton, US EPA, Civil Investigator, from Christopher J. Pass, for Container Research Corporation dated 10/2/97 .
- 28) Letter to Gary W. Morton, US EPA, Civil Investigator, from Nancy N. Young, Esq., Counsel for Cyprus Foote Mineral Company dated 10/2/97 with attachments.
- 29) Letter to Gary W. Morton, US EPA, Civil Investigator, from Andrew P. Foster, Counsel for Data Media, Inc., dated 10/06/97 with attachments
- 30) Letter to Gary W. Morton, US EPA, Civil Investigator, from Kristen S. Caldwell, Legal Assistant, for Donn Corp., USG Interiors, Floor Systems, Inc. and Davey Products dated 10/20/97 with attachments.
- 31) Letter to Gary W. Morton, US EPA, Civil Investigator, from Craig Benfield, for Delbar Products, Inc., dated 9/29/97 with attachments.
- 32) Letter to Gary W. Morton, US EPA, Civil Investigator, from Judy

Malmquist, for Defense Reutilization and Marketing Service dated 9/17/97.

- 33) Letter to Greg Hamm, US EPA, Remediation Manager, from Craig Benfield, for Delbar Products, Inc. dated 5/16/97 with attachment.
- 34) Letter to Gary W. Morton, US EPA, Civil Investigator, from Steven D. Meyers, Esq., Counsel for Dixon Industries, Inc., dated 10/5/97 with attachments.
- 35) Letter to Gary W. Morton, US EPA, Civil Investigator, from Kristen S. Caldwell, for Donn corporation, USG Interiors, Floor Systems, Inc. and Davey Products, dated 10/20/97 with attachments.
- 36) Letter to Joan A. Johnson, US EPA, Assistant Regional Counsel, from David A. Garrison, Esq., Counsel for Eldredge, Inc., dated 6/3/98.
- 37) Letter to Greg Hamm, US EPA, Remediation Manager, from Robert M. Strickler, Esq., Counsel for Electro-Platers of York, Inc., dated 5/16/97 with attachments.
- 38) Letter to Gary W. Morton, US EPA, Civil Investigator, from Robert M. Strickler, Esq., Counsel for Electro Platers, dated 8/22/97 with attachments.
- 39) Letter to Gary W. Morton, US EPA, Civil Investigator, from Richmond L. Williams, Esq., Counsel for Electronic Display Systems Inc., dated 10/3/97 with attachments.
- 40) Letter to Gary W. Morton, US EPA, Civil Investigator, from Mary E. Schulz, for Hercules Aerospace Display Systems, dated 10/6/97.
- 41) Letter to Gary W. Morton, US EPA, Civil Investigator, from Robert M. Strickler, Esq., Counsel for Emeco Industries, Inc., dated 9/22/97.
- 42) Letter to Gary W. Morton, US EPA, Civil Investigator, from Kristen C. Caldwell, for Donn Corporation, USG Interiors, Floor Systems, Inc. and Davey Products, dated 10/20/97.

- 43) Letter to Gary W. Morton, US EPA, Civil Investigator, from Robert M. Strickler, Esq., Counsel for Emeco Industries, Inc., dated 2/3/97.
- 44) Letter to Gary W. Morton, US EPA, Civil Investigator, from Kim Hollaender, Esq., Counsel for Floor Systems, Inc., dated 2/4/98 with attachments.
- 45) Letter to Gary W. Morton, US EPA, Civil Investigator, from Michael G. Karlis, Esq., Counsel for Formosa Plastics Corporation, dated 5/30/97.
- 46) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Anthony J. Reitano, Esq., Counsel for Gateway Terminal Services Corp., dated 12/19/96.
- 47) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Melissa A. Manuel, Esq., Counsel for Hamilton Precision Metals, dated 6/4/97 with attachments.
- 48) Letter to Gary Morton, US EPA, Civil Investigator, from Stephen J. Castellon, for Graphic Packaging Corporation, dated 12/20/96 with attachments.
- 49) Letter to Gary Morton, US EPA, Civil Investigator, from Craig Schnee, for Hamilton Technology, Inc., dated 9/22/97 with attachments.
- 50) Letter to Gary Morton, US EPA, Civil Investigator, from George J. Ozorowski, Esq., Counsel for J&J Spill Services, Inc., dated 6/7/98.
- 51) Letter to Gary Morton, US EPA, Civil Investigator, from David C. Toomey, Esq., Counsel for Herman Goldner, Co., Inc., dated 10/1/97.
- 52) Letter to Linda Dietz, US EPA, Remedial Project Manager, from John W. Rex, for J.W. Rex, Inc. dated 5/15/98.
- 53) Letter to Gary Morton, US EPA, Civil Investigator, from Andrew P. Foster, Esq., Counsel for James Spring & Wire Co., dated 10/6/97 with attachments.

- 54) Letter to Gary Morton, US EPA, Civil Investigator, from Frank J. Opet, for Johnson Matthey, dated 9/16/97 with attachments.
- 55) Letter to Gary Morton, US EPA, Civil Investigator, from Emily J. Lawrence, Esq., NGK Metals, dated 1/17/97 with attachments.
- 56) Letter to Gary Morton, US EPA, Civil Investigator, from Susan P. LeGros, Esq., Counsel for Kim Manufacturing, dated 9/25/97 with attachments.
- 57) Letter to Gary Morton, US EPA, Civil Investigator, from Andrew P. Foster, Esq., Counsel for Kulicke & Soffa, dated 10/6/97 with attachments.
- 58) Letter to Gary Morton, US EPA, Civil Investigator, from James D. Brady, for McGee Industries, dated 12/17/96 with attachments.
- 59) Letter to Gary Morton, US EPA, Civil Investigator, from Andrew P. Foster, Esq., Counsel for Moore Products, dated 10/6/97 with attachments.
- 60) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Stephen V. Moser, for Mead Packing Division, dated 11/27/96.
- 61) Letter to Gary W. Morton, US EPA, Civil Investigator, from David Halpern, for Neutronics, Inc., dated 10/13/97 with attachments.
- 62) Letter to Gary Morton, US EPA, Civil Investigator, from Emily J. Lawrence, Esq., Counsel for NGK Metals, dated 1/17/97 with attachments.
- 63) Letter to Gregg Hamm, US EPA, Remediation Manager, from William N. Fay, for North Industrial Chemicals, dated 5/29/97.
- 64) Letter to Gary W. Morton, US EPA, Civil Investigator, from Arundhati Khanwalkar, Esq., Counsel for PPL (f/k/a Pennsylvania Power & Light Company), dated 10/3/97 with attachments.

- 65) Letter to Gary Morton, US EPA, Civil Investigator, from Jean H. McCreary, Esq., Counsel for Vishay Resistive Systems, dated 10/6/97.
- 66) Letter to Gary W. Morton, US EPA, Civil Investigator, from Steven J. Lemon, Esq., Counsel for Plymouth Tube Company, dated 10/3/97 with attachments.
- 67) Letter to Gary Morton, US EPA, Civil Investigator, from Stephen B. Harris, Esq., Counsel for Polysciences Inc., dated 10/8/97 with attachments.
- 68) Letter to Gregg Hamm, US EPA, Remediation Manager, from Stephen B. Harris, Esq., Counsel for Polysciences Inc., 6/25/97 with attachments.
- 69) Letter to Gary W. Morton, US EPA, Civil Investigator, from Jay H. Karsch, Esq., Counsel for Porter Instrument Company, Inc., dated 10/2/97 with attachments.
- 70) Letter to Gary W. Morton, US EPA, Civil Investigator, from Harry J.J. Bellwoar III, Esq., Counsel for Princo Instruments, Inc., dated 9/8/97.
- 71) Letter to Gary Morton, US EPA, Civil Investigator, from Harry J.J. Bellwoar, III, Esq., Counsel for Princo Instruments, Inc., dated 12/16/96.
- 72) Letter to Gary Morton, US EPA, Civil Investigator, from Andrew P. Foster, Esq., Counsel Reilly Plating, dated 10/5/97 with attachments.
- 73) Letter to Gary Morton, US EPA, Civil Investigator, from Steven Picco, Esq., Counsel for SGL Electronics, dated 9/8/97 with attachment.
- 74) Letter to Gary W. Morton, US EPA, Civil Investigator, from Sharon Oras Morgan, Esq., Counsel for Simon Wrecking Co., Inc., dated 10/24/97 with attachments.
- 75) Letter to Gary W. Morton, US EPA, Civil Investigator, from

- C. William McGlocklin, for SKF USA, Inc., dated 10/2/97 with attachments.
- 76) Letter to Benjamin Fields, US EPA, Assistant Regional Counsel, from Daniel F. Schranghamer, Esq., Counsel for SPD Technologies, dated 3/14/97 with attachments.
- 77) Letter to Gary W. Morton, US EPA, Civil Investigator, from Edwin L. Meyer, Jr., Esq., Counsel for Specialty Castings, Inc., dated 10/3/97.
- 78) Letter to Gary W. Morton, US EPA, Civil Investigator, from Stephen M. Fleischman, for Sterling/Fleischman, Inc., dated 9/12/97.
- 79) Letter to Linda Dietz, US EPA, Remedial Project Manager, from William N. Sterrett, Jr., for Superior Tube Company, dated 2/10/97 with attachments.
- 80) Letter to Linda Dietz, US EPA, Remedial Project Manager, from William N. Sterrett, Jr., for Superior Tube Company, dated 9/30/97 with attachments.
- 81) Letter to Gary W. Morton, US EPA, Civil Investigator, from Jill M. Palmer, for Sweda International, dated 10/3/97 with attachments.
- 82) Letter to Gary W. Morton, US EPA, Civil Investigator, from Jill M. Palmer, for Sweda International, dated 10/3/97 with attachments.
- 83) Letter to Gary W. Morton, US EPA, Civil Investigator, from Chuck Hungerford, Esq., Counsel for Syntex Inc., dated 10/3/97.
- 84) Letter to Gary W. Morton, US EPA, Civil Investigator, from Mario Rafalin, for Xensor Corp., (f/k/a Transducer Systems, Inc.), dated 1/13/97 with attachments.
- 85) Letter to Gary W. Morton, US EPA, Civil Investigator, from Kristen S. Caldwell, Legal Assistant, for Donn Corporation, USG Interiors, Floor Systems, Inc. and Davey Products, dated 10/20/97 with attachments.
- 86) Letter to Gary Morton, US EPA, Civil Investigator, from Jean H.

- McCreary, Esq., Counsel for Vishay Resistive Systems, dated 10/6/97 with attachments.
- 87) Letter to Gary Morton, US EPA, Civil Investigator, from Sarah D. Plasha, for VIZ Manufacturing Company, dated 8/14/98 with attachments.
- 88) Letter to Joan Johnson, US EPA, Assistant Regional Counsel and Gary Morton, US EPA, Civil Investigator, from Samuel I. Gutter, Esq., Counsel for Lucent Technologies, Inc., dated 9/29/97.
- 89) Letter to Joan Johnson, US EPA, Assistant Regional Counsel, from Thomas A. Vendenberg, In-house Counsel for Lockheed Martin Corporation, dated 8/18/98 with attachments.
- 90) Letter to Gary Morton, US EPA, Civil Investigator, from Patricia A. Shaw, Esq., Counsel for Aluminum Company of America, dated 10/2/97.
- B) Malvern TCE Superfund Site Volumetric Ranking Challenges and EPA's Response.
- C) Challenges as to misidentification, successorship and liability.
- 1) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Marietta H. Barbour, Previous Counsel, for Autopak dated 6/27/97.
- 2) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Joseph A. Harmer, A&J Screw Machine Products Company dated 5/6/98.
- 3) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Jay Rosenbluth, for A.S. Koch Corp. Dated 8/5/97.
- 4) Letter to Linda Dietz, US EPA, Remedial Project Manager, from M. Dee Allgood, for ADEC dated 9/5/97.

- 5) Letter to Gary Morton, US EPA, Civil Investigator, from David Goldense, Esq., Counsel for Aeroplating, Inc. Dated 9/9/97.
- 6) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Rodney K. Gilbert and Ronald King, for ARK Products, dated 5/8/98.
- 7) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Ronald A. King, for ARK Products Co., Inc., dated 6/24/97.
- 8) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Marietta H. Barbour, Esq., Previous Counsel for Auto-Pak, dated 6/27/97.
- 9) Letter to Gary Morton, US EPA, Civil Investigator, from David Goldense, Esq., Counsel for Aeroplating, Inc., dated 9/9/97.
- 10) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Marietta H. Barbour, Esq, Counsel for Auto Pack dated 5/12/98.
- 11) Letter to Joan A. Johnson, US EPA, Assistant Regional Counsel, from Marietta H. Barbour, Esq., Counsel for Auto Pack dated 5/29/98.
- 12) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Marietta Barbour, Esq., Counsel for Auto-Pack, dated 12/4/96.
- 13) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Ferdinando Saglio, for Damascus-Bishop Tube Company, Inc., dated 2/5/97.
- 14) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Ferdinando Saglio, for Damascus-Bishop Tube Company, Inc., dated 12/5/96.
- 15) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Brian D. Bertonneau, for Reynolds Metals Company, dated 5/11/98.
- 16) Letter to Gary Morton, US EPA, Civil Investigator, from Ruben Tarno, for Crown Remanufacturing Inc., dated 8/8/97.
- 17) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Stephen M. Palovitch, for Delco Wire Cable and Delco Electronics Corporation

dated 5/19/97.

- 18) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Stephen M. Palovitch, for Delco Wire & Cable dated 2/21/97.
- 19) Letter to Gary Morton, US EPA, Civil Investigator, from James Pendleton, for Devon Apparel dated 1/6/97 with attachments.
- 20) Letter to US EPA, Customer Service Dept., from Ronald Alderfer, for TSG Merchandising, Inc., dated 12/18/98.
- 21) Letter to Gary Morton, US EPA, Civil Investigator, from Gloria Ann Bean, for TSG Merchandising, Inc., dated 9/5/97 with attachments.
- 22) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Robert J. Jacobson, for Doehler-Jarvis Division of NL Industries, dated 8/7/97.
- 23) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Paul Burkhardt, for Tate Access Floors, Inc., dated 12/9/96 with attachments.
- 24) Letter to Gary Morton, US EPA, Civil Investigator, from Susan P. LeGros, Esq., Counsel for Drexelbrook Engineering Company dated 10/6/97.
- 25) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Albert A.Z. Pappas, for a Malvern TCE Superfund Site, dated 9/18/97 with attachments.
- 26) Letter to Linda Dietz, US EPA, Remedial Project Manager, from David M. Dumas, Esq., Counsel for The Nippert Company dated 2/20/97 with attachments.
- 27) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Brian F. Shear, Esq., Counsel for Aerospace Display Systems, Inc., dated 11/27/96.
- 28) Letter to Linda Dietz, US EPA, Remedial Project Manager, from William V.A. Zorn, Counsel for Allard Industries, Inc., dated 11/26/96 with attachments.
- 29) Letter to Joan A. Johnson, US EPA, Assistant Regional Counsel, from Robert M. Strickler, Esq., Counsel for EMECO Industries, dated 5/12/98

with attachments.

- 30) Letter to Linda Dietz, US EPA Remedial Project Manager, from Richard W. Sherman, for Orbital Sciences Corporation dated 8/12/97.
- 31) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Stephen B. Harris, Esq., Counsel for Fergusson-McKenna Supply Company, dated 5/18/98.
- 32) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Dennis Courtney, President, for Andrews Glass Company, Inc. Dated 5/12/98.
- 33) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Paul Burkhardt, for Tate Access Floors, Inc., dated 12/9/96.
- 34) Letter to Gary Morton, US EPA, Civil Investigator, from Bill Gilfillan, President, for Giltech Inc., dated 7/21/97.
- 35) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Alan Kratz, for Globe Solvents Co., of Maryland, dated 8/7/97.
- 36) Letter to Linda R. Dietz, US EPA, Remedial Project Manager, from Craig Schnee, for Malvern TCE Superfund Site dated 12/20/96 with attachments.
- 37) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Toni M Keller, Consulting Attorney, for ICI Americas Inc., dated 12/10/96.
- 38) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Bradford C. Middlesworth, P.E., for Syman-Gordon Company dated 8/8/97.
- 39) Letter to Gary Morton, US EPA, Civil Investigator, from Jeanie La Torre, for Kern Foam Products Corporation dated 7/12/97 with attachment.
- 40) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Arthur Kern, for Kern Foam Products Corporation dated 12/5/96.
- 41) Letter to Gary Morton, US EPA, Civil Investigator, from Robert Fairbank, for Midwest Fastners, Inc., dated 1/27/98.

- 42) Letter to Linda Dietz, US EPA, Remedial Project Manager, from A. Carter Fergusson, for Alex C. Ferguson Company, dated 8/8/97.
- 43) Letter to Gary Morton, US EPA, Civil Investigator, from Doris E. Cohen for Malvern TCE Superfund Site dated Lancaster Machinery, dated 9/3/97.
- 44) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Doris E. Cohen, for Lancaster Machinery, dated 9/3/97.
- 45) Letter to Gary Morton, US EPA, Civil Investigator, from Albert C. Bailey, for Lavelle Company dated 5/14/97.
- 46) Letter to Joan A. Johnson, US EPA, Assistant Regional Counsel, from Philip J. Katauskas, Esq., Counsel for Lavelle Company, dated 5/7/98 with attachments.
- 47) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Mary Popham, for Mack Plastics Corporation dated 8/6/97.
- 48) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Robert W. Forman, Esq., Counsel for Uni-Star Industries, Inc., dated 2/12/97 with attachments.
- 49) Letter to Gary W. Morton, US EPA, Civil Investigator, from Robert W. Forman, Esq., Counsel for Malco c/o Microdot Connectors, Inc., dated 7/24/98 with attachments.
- 50) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Steve Hilbert, for Narco Avionics, Inc., dated 5/6/97.
- 51) Letter to Joan A. Johnson, US EPA, Assistant Regional Counsel, from Edward M. Zimmer, for Narco Avionics Inc., dated 6/11/98.
- 52) Letter to Linda Dietz, US EPA, Remedial Project Manager, from William Weidemoyer, for Ni-Chro Finishing, dated 11/26/96.
- 53) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Terry W. Knox, Esq., Counsel for Norco Finishing, Inc., dated 8/7/97.
- 54) Letter to Gary W. Morton, US EPA, Civil Investigator, from Scott S.

- Douglas, Assistant General Counsel, for Leggett & Platt Incorporated, dated 9/10/97 with attachments.
- 55) Letter to Gary Morton, US EPA, Civil Investigator, from Scott Douglas, Assistant General Counsel, for Leggett & Platt Incorporated, dated 8/22/97 with attachments.
- 56) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Alfred E. Enoch, Jr., for M.A.B. Paints & Coatings, dated 12/9/96.
- 57) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Patricia A. Shaw, Counsel for Permutit/Sybron Corporation c/o U.S. Filter, dated 11/26/96.
- 58) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Peter R. Reckmeyer, Counsel for Sybron International, dated 2/5/98.
- 59) Letter to Gary Morton, US EPA, Civil Investigator, from Patricia A. Shaw, Counsel for U.S. Filter, dated 10/2/97.
- 60) Letter to Gary Morton, US EPA, Civil Investigator, from Lee Diekutoski, for Philadelphia Steel Drum Company, Inc., dated 8/10/97.
- 61) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Richard H. McNutt, for PHL Inc., dated 11/20/96.
- 62) Letter to Gary Morton, US EPA, Civil Investigator, from Richard H. McNutt, for PHL Inc., dated 9/17/97.
- 63) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Richard H. McNutt, for PHL Inc., dated 5/5/98.
- 64) Letter to Linda Dietz, US EPA, Remedial Project Manager, from William J. Marano, for REPCO, dated 12/9/96 with attachments.
- 65) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Brian D. Bertonneau, for Reynolds Metal Company, dated 5/11/98.
- 66) Letter to Linda Dietz, US EPA, Remedial Project Manager, from David J. Selfon, for Samuel Miller & Sons, dated 11/19/96.

- 67) Letter to Gary Morton, US EPA, Civil Investigator, from David J. Selfon, for Samuel Miller & Sons, dated 9/26/97.
- 68) Letter to Gary Morton, US EPA, Civil Investigator, from Paul S. Lewandowski, Counsel for Stroh Brewery Company, dated 9/15/97.
- 69) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Thomas J. Pilla, Esq., in reference to Scotco Design Group, Inc., dated 5/15/98.
- 70) Letter to Abraham Ferdas, US EPA, Acting Director, Hazardous Waste Management Division, from Richard L. Shuman, Surgical Specialties Corporation, dated 8/12/97.
- 71) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Friedrich W. and Rolf D. Schmidt, for Sharpoint, Inc., dated 5/8/98.
- 72) Letter to Abraham Ferdas, US EPA, Associate Director Superfund Programs, from Janet Terenzi, for Bicoastal Corporation, dated 12/9/96 with attachments.
- 73) Letter to Joan A. Johnson, US EPA, Assistant Regional Counsel, from Janet Terenzi, for Bicoastal Corporation, dated 5/11/98.
- 74) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Edwin L. Meyer, Jr., Counsel for Speciality Castings, Inc., dated 11/19/96.
- 75) Letter to Gary Morton, US EPA, Civil Investigator, from John F. Cowgill, for Speciality Castings, Inc., dated 5/20/98.
- 76) Letter to Gary Morton, US EPA, Civil Investigator, from Matthew Podolonick, Counsel for Spencer Gifts, Inc., dated 10/24/97.
- 77) Letter to Gary Morton, US EPA, Civil Investigator, from John P. Gruber, for American Annuity Group, Inc., dated 9/12/97.
- 78) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Paul Burkhardt, for Tate Access Floors, Inc., dated 4/23/97 with attachments.
- 79) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Thomas

- D. Lewis, for Total Recovery, Inc., dated 4/11/97.
- 80) Letter to Gary Morton, US EPA, Civil Investigator, from Gary J. Johnson, For Tube Methods, Inc., dated 8/7/97.
- 81) Letter to Gary Morton, US EPA, Civil Investigator, from L.A. Krupnick, Counsel for Inductotherm Industries, Inc., dated 7/15/97.
- 82) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Marth J. Waller, Counsel for Chemi-Con Corporation, dated 8/12/97
- 83) Letter to Gary Morton, US EPA, Civil Investigator, from Thomas N. Griffith, Counsel for United Chemi-Con Corporation, dated 9/23/97.
- 84) Letter to Linda Dietz, US EPA, Remedial Project Manager, from Paul Burkhardt, for Tate Access Floors, Inc., dated 12/9/96 with attachments.
- 85) Letter to Abraham Ferdas, US EPA, from Fred G. Arkoosh, Jr., for Wilkinson Manufacturing Company, dated 12/26/96.
- 86) Lettter to Gary Morton, US EPA, Civil Investigator, from Michael A. Wittman, for Wittronic, Inc., dated 9/16/97 with attachments.
- 87) Letter to Gary Morton, US EPA, Civil Investigator, from Jan Babcock, for Yuasa Exide, Inc., dated 9/30/97 with attachments.

IV) SETTLEMENT DOCUMENTS AND PUBLIC COMMENT

- A) Administrative Order on Consent for *De Minimis* Settlement for the Malvern TCE Superfund Site, Docket No. CERC-III-98-074-DC.
 - 1) Attachment 1 - List of 168 Settling Parties

- B) Federal Register Notice prepared by US EPA, Re: Proposed Administrative Settlement Under the Comprehensive Environmental Response, Compensation, and Liability Act, Request for Public Comment, dated

- C) Public Comment - (if any)

- D) EPA Response to Public Comment

ATTACHMENT THREE

From: MICHAEL FRANKEL
To: Morton-Gary
Date: 8/11/99 12:28pm
Subject: Malvern De Minimis Admin Rec

Hi Gary,

This message is in further response to your v/m message yesterday regarding completion of the Admin.. Rec for the Malvern TCE De Minimis Settlement.

Attached for your records is a copy of the Draft Index which I prepared for the De Minimis Settlement Admin. Rec. I supplied Anna Butch with a complete set of documents <in order> as well as the index. The Index was required before the settlement package could be forwarded to the R.A.

Our Law Clerk Nunzio Ruggeri reported this week that Anna Butch and company have not completed processing the record, so as we prepare De Minimis Settlement Packages for the ability to pay parties, we are still using the draft index. I am in the process of reviewing the ability to pay settlement documents.

Before these documents can go into concurrence you'll have to let me know what is the status of the four previously approved ability to pay parties.

Thanks
Mike
X2665

CC: Torres-Heathergray